

8/31/78

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OP 1014 PM-75

INFO OCT-01 ARA-10 ISO-03 HA-05 EB-06 MCE-20 CIAE-03
INS-10 NSAE-03 L-03 H-01 AID-25 ACDA-12 TRSE-03
OVR-01 NSC-15 COME-02 SP-02 /253 R

CLASSIFIED BY PM/SAS:RTITUS:L/PM:IBOREK:RG
APPROVED BY PM/SAS:HWCELROY
ARA/EOA:NBOUTON:JBUMPUS (INFO)
ARA/PPP:SCUIGG (INFO)
H/HT:BOJONES (INFO)
DOO/ISA/DFAA:JEILLINGS (INFO)
DOO/ISA:IA:JTHOMAS (INFO)
PM/SAS:IPERNICK

-----047146 311921Z /12
R 311600Z AUG 73
FM GEOSTATE WASHDC
TO AMEMBASSY BUENOS AIRES
INFO SECDEF WASH DC 1129
AMEMBASSY SANTIAGO
USCINCSO GUARRY HTS. CZ

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S.O. 11652: GDS

TAGC: MARR, MASS, NMOL, SHUM, AR

SUBJECT: IMPLEMENTATION OF SEC. 5203 OF FAA OF 1961, AS
AMENDED

REF: BUENOS AIRES 5747

1. FOLLOWING COMMENTS REPLY SERIALLY TO QUESTIONS IN
REFTEL.

2. DEFENSE ARTICLES AND SERVICES FOR WHICH FMS CONTRACTS

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BOX 8114 (2/21)

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TAB 2

ARGENTINA PROJECT (S200000044)
U.S. DEPT. OF STATE, A/RPS/IPS
Margaret P. Grafeld, Director
(X) Release () Excise () Deny
Exemption(s):
Declassify: () In Part (X) In Full
() Classify as () Extend as () Downgrade to
Date _____ Declassify on _____ Reason _____

Signature

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WERE SIGNED BEFORE OCTOBER 1, 1978 MAY BE DELIVERED (SO-CALLED PIPELINE DELIVERIES) AFTER THAT DATE. THERE IS NO RPT NO PRESELECTED TIME PERIOD WITHIN WHICH ALL PIPE-LINE MATERIAL MUST BE DELIVERED. THE ONLY MEANS BY WHICH PIPELINE DELIVERIES COULD BE INTERRUPTED OR TERMINATED WOULD BE BY FURTHER ACT OF CONGRESS OR BY POLICY DECISION OF EXECUTIVE BRANCH.

B. FOR PURPOSES OF SECTION 5202 OF FAA, AN FMS "SALE" TAKES PLACE UPON CONCLUSION OF SALES CONTRACT, I.E. LETTER OF OFFER HAS BEEN ISSUED BY USG AND ACCEPTED ON BEHALF OF COA. INSOFAR AS LICENSING OF EXPORT OF COMMERCIAL-ALLY MUNITIONS LIST ARTICLES OR SERVICES IS CONCERNED, CRITICAL FACTOR IS ISSUANCE OF EXPORT LICENSE ON OR BEFORE SEPTEMBER 30: SUCH ITEMS OR SERVICES MAY BE EXPORTED AFTER THAT DATE UNDER VALID LICENSE ISSUED PREVIOUSLY.

C. "DEFENSE ARTICLE AND DEFENSE SERVICE" FOR FMS PURPOSES IS ANYTHING SOLD ON THAT BASIS, REGARDLESS OF WHETHER IT IS ON MUNITIONS LIST. INSOFAR AS EXPORT LICENSING IS CONCERNED "DEFENSE ARTICLE AND DEFENSE SERVICE" REFERS ONLY TO ITEMS AND DATA ENCOMPASSED BY THE MUNITIONS LIST. COMMERCIAL-ALLY-SOLD MUNITIONS LIST ITEMS OR DATA REQUIRE LICENSE BEFORE THEY MAY BE EXPORTED: IN MANY CASES, DEPENDING ON THE PARTICULAR CIRCUMSTANCES, EXPORT LICENSES MAY BE REQUIRED FOR MUNITIONS LIST ITEMS OR DATA SOLD UNDER FMS AS WELL.

D. (1) SECTION 5272 WILL HAVE NO EFFECT ON SUPPLY SUPPORT ARRANGEMENTS FOR WHICH FMS CONTRACTS WERE CONCLUDED PRIOR TO OCTOBER 1. EXPORTS OF MUNITIONS LIST ITEMS PROCURED PURSUANT TO SUPPLY SUPPORT ARRANGEMENTS (OR ANY OTHER FMS CONTRACT) MAY TAKE PLACE ON OR AFTER OCTOBER 1 SO LONG AS

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VALID EXPORT LICENSE THEREFOR IS ISSUED PRIOR TO THAT DATE, UNLESS EXPORT TRANSACTION IS SO ARRANGED AS TO FALL WITHIN ONE OF THE EXEMPTIONS PROVIDED FOR IN THE INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR) SO THAT NOSUCH LICENSE WOULD BE REQUIRED, E.G. WHERE EXPORT IS CARRIED OUT BY USG AGENCY ITSELF, IS VIA U.S. GOVERNMENT BILL OF LADING, OR WHERE ACTUAL TRANSFER OF POSSESSION IS EFFECTED IN U.S. BY U.S.G. AGENCY TO ARGENTINE GOVERNMENT OR ITS CARRIER. SUPPLY SUPPORT ARRANGEMENTS EXPIRING AFTER SEPTEMBER 30 CANNOT BE REINSTITATED IF SUCH REINSTATEMENT REQUIRES CONCLUSION OF NEW FMS CONTRACT; NEW COMMERCIAL ARRANGEMENTS CANNOT BE ENTERED INTO, ALTHOUGH NO LICENSE COULD BE ISSUED FOR EXPORT OF MUNITIONS LIST ARTICLES OR DATA THEREUNDER.

(2) YOU SHOULD NOTE THAT SECTION 210 OF SUPPLEMENTAL APPROPRIATIONS ACT, 1973 (P.L. 93-243) PERMITS RENEWAL OR REISSUANCE OF EXPORT LICENSE EXPIRING AFTER SEPTEMBER 30 SO LONG AS SUCH LICENSE IS NOT CHANGED "SIGNIFICANTLY". THIS PROVISION IS INTENDED TO PERMIT LICENSES TO BE ISSUED TO REPLACE EXPIRING LICENSES SO THAT COMMERCIAL CONTRACTS CALLING FOR EXPORTS OF MUNITIONS LIST ITEMS OVER A PERIOD GREATER THAN ONE YEAR (MAXIMUM PERIOD FOR WHICH EXPORT LICENSES MAY BE ISSUED) MAY BE PERFORMED. SECTION 210 OF P.L. 93-243 WOULD NOT REPEAT NOT ALLOW ISSUANCE OF LICENSES AFTER SEPTEMBER 30 FOR EXPORTS UNDER NEW CONTRACTS, EVEN IF SUBJECT MATTER OF SUCH CONTRACTS IS MERELY CONTINUATION OF PREVIOUS CONTRACT, E.G. EXTENSION OF EXPIRED SUPPLY SUPPORT ARRANGEMENT.

3. YOU SHOULD ALSO NOTE THAT FACT THAT SECTION 5203 DOES NOT PROHIBIT DELIVERIES UNDER EXISTING FMS CONTRACTS OF

EXPORTS UNDER PREVIOUSLY-ISSUED LICENSES DOES NOT REPEAT. NOT MEAN THAT USG MAY NOT, IF AND WHERE APPROPRIATE, PRECLUDE DELIVERY OF EXPORT AS MATTER OF ADMINISTRATIVE DISCRETION. WE WOULD WISH TO AVOID MISUNDERSTANDINGS WITH

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GOA ON THIS POINT.

CHRISTOPHER

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